

TAB J

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UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

	X	
CYCLE-CRAFT CO., INC.,	X	
d/b/a BOSTON	X	
HARLEY-DAVIDSON/BUELL,	X	
Plaintiff	X	
	X	CASE NO.
vs.	X	04 11402 NMG
	X	
HARLEY-DAVIDSON MOTOR	X	
COMPANY, INC., and BUELL	X	
DISTRIBUTION COMPANY, LLC,	X	
Defendants	X	

***VIDEOTAPED DEPOSITION of MICHAEL BLOOM,***  
taken pursuant to the applicable provisions  
of the Federal Rules of Civil Procedure,  
before Jill Kourafas, Certified Shorthand  
Reporter and Notary Public in and for the  
Commonwealth of Massachusetts held at the  
Law Offices of Bingham McCutchen,  
150 Federal Street, Boston, Massachusetts,  
on May 2, 2005, commencing at 3:10 p.m.

***REPORTERS, INC.***  
***GENERAL & TECHNICAL COURT REPORTING***  
***23 MERRYMOUNT ROAD, QUINCY, MA 02169***  
***617.786.7783/FACSIMILE 617.786.7723***

1 Q. What was the commission?

2 A. Well, it varied with bike to bike, but at  
3 that time, it wasn't right away that I got  
4 that part of the package.

5 Are you asking only in July?

6 Q. Well, let's start with that.

7 while you were still in the '03  
8 model year, were you getting commissions?

9 A. No, just salary.

10 Q. And were you offered any commission or bonus  
11 based on any performance in July of '03 that  
12 you recall?

13 A. No, I was not offered any.

14 Q. I understand.

15 Did you purchase a new motorcycle  
16 from Cycle-Craft in July of '03?

17 A. No, I did not.

18 Q. Did Elaine, your wife, purchase a new  
19 motorcycle from Cycle-Craft in July of '03?

20 A. No, she did not.

21 Q. Did Lissa, your daughter, purchase a new  
22 motorcycle from Cycle-Craft in July of '03?

23 A. No, she did not.

24 Q. Did your son Matt purchase a new motorcycle

1 from Cycle-Craft in July of '03?

2 A. No, he did not.

3 Q. Did any of you have a contract or agreement  
4 to buy a new motorcycle from Cycle-Craft in  
5 July of '03?

6 MR. REHNQUIST: Object to form.

7 Q. You can answer the question.

8 A. We didn't have a contract; we had a verbal  
9 understanding.

10 Q. Okay. Did you sign a bill of sale for a  
11 motorcycle for your purchase from  
12 Cycle-Craft in July of '03?

13 A. No.

14 Q. Did your wife Elaine sign a bill of sale to  
15 buy a motorcycle from Cycle-Craft in July of  
16 '03?

17 A. No.

18 Q. Did your daughter Lissa sign a bill of sale  
19 to buy a new motorcycle from Cycle-Craft in  
20 July of '03?

21 A. No.

22 Q. Did your son Matt sign a bill of sale to buy  
23 a new motorcycle from Cycle-Craft in July of  
24 '03?

1 A. No.

2 Q. Did you or your wife or your son or your  
3 daughter fill out any forms or paperwork for  
4 the purchase of a new motorcycle from  
5 Cycle-Craft in July of '03?

6 A. I did not, my wife did not, my son did not  
7 and, to the best of my recollection, my  
8 daughter did not.

9 Q. Did any of you put down a deposit for a new  
10 motorcycle to be purchased from Cycle-Craft  
11 in July of '03?

12 A. I did not.

13 Q. To your knowledge, did your wife, daughter  
14 or son?

15 A. Not that I'm aware of.

16 Q. Now, what was the understanding that you  
17 said was reached? You said there was some  
18 understanding regarding a purchase of a  
19 motorcycle?

20 A. Yeah, that we could purchase motorcycles at  
21 a discounted rate, and also that there's no  
22 guarantee we are going to get those  
23 motorcycles 'cuz if they were sold to a  
24 retail customer, they were gonna be sold.

1 Q. So, is this an offer that Mr. Buchbaum made?

2 A. Yes.

3 Q. And was it made to you as well as others?

4 A. Yes, it was.

5 Q. Was it made in or around July of '03?

6 A. Yes, it was.

7 Q. Do you remember what the discounted rate  
8 was?

9 A. We were told it would be above -- a little  
10 above cost. To me, I didn't know what that  
11 was at the time, but it sounded like a  
12 fantastic deal.

13 Q. Did you promise anyone that you would  
14 purchase a motorcycle in July of '03?

15 A. What do you mean by that?

16 MR. REHNQUIST: Object to the  
17 form.

18 Q. Did you promise Mr. Buchbaum that you would  
19 buy a motorcycle in July of '03?

20 A. I would buy the motorcycles if they were  
21 available to me. I never promised him,  
22 because the understanding was that they  
23 could be sold and we couldn't get them. But  
24 if they were not sold, we were gonna get

1           them at a better rate.

2       Q.     At the end of the model year?

3       A.     The time was never discussed when it was  
4           gonna happen.

5       Q.     why did you not buy a motorcycle?

6       A.     They were sold. Your question is why didn't  
7           I buy a motorcycle?

8       Q.     Yes.

9       A.     I bought one in '04.

10      Q.     why didn't you buy one in July of '03?

11      A.     Because that motorcycle was sold.

12      Q.     Which motorcycle was that?

13      A.     The one that I had for myself.

14      Q.     And can you describe it?

15      A.     It was probably a Road Glide, I'm not sure  
16           exactly the model. If it was a Road Glide,  
17           I would have bought that, if it was a Road  
18           King, I would have bought that. I would  
19           have bought any big bike, any FL.

20      Q.     Did you have a particular one picked out for  
21           yourself?

22      A.     I don't recall that. I'm not sure.

23      Q.     Did your wife Elaine indicate to anyone at  
24           the dealership that she would buy a

1 motorcycle from the dealership?

2 A. No.

3 Q. Did your daughter Lissa indicate to anyone  
4 at the dealership that she would buy a  
5 motorcycle from the dealership?

6 MR. REHNQUIST: Objection;  
7 foundation.

8 Q. You can answer.

9 A. My daughter was going to take the course to  
10 buy a motorcycle, so --

11 Q. Take the course?

12 A. There's a Rider's Ed. course, they call it.  
13 She wanted to learn how to ride a motorcycle  
14 and she was going to buy a motorcycle and  
15 she was talking about several different  
16 models and coming to me.

17 But what was your question, did  
18 she --

19 Q. Whether she indicated to anyone at the  
20 dealership that she would buy a motorcycle.

21 A. You'd have to -- I don't know. I mean, she  
22 indicated to me she would, but I don't know  
23 anyone else in the dealership that she  
24 talked with.



1 Q. How about your son Matt, did he indicate  
2 that he would buy a motorcycle from the  
3 dealership?

4 A. Absolutely.

5 Q. Who did he say that to?

6 A. To me.

7 Q. Did he pick one out?

8 A. I picked it out, but again, I don't know  
9 what the model was, because he's 6-foot-7,  
10 6-foot-8, so it would have to be a big  
11 motorcycle, it wouldn't be a Sportster or a  
12 little bike.

13 Q. Did he fill out any paperwork committing to  
14 buy a motorcycle?

15 A. Not that I know of, no.

16 Q. Did you?

17 A. No.

18 Q. And, to your knowledge, your wife and  
19 daughter did not either fill out --

20 A. I already told you that, no, they did not.

21 Q. Do you know what an "SWR Form" is?

22 A. Yes.

23 Q. What is it?

24 A. It's a paper that once a motorcycle is sold,